

REMARKS

Claims 15-21 are all of the pending claims, with claim 15 being the sole independent claim.

The Examiner rejects claims 15-21 under 35 USC § 103(a) as being obvious over US 6,327,806 to Paige (“Paige”) in view of US 5,189,555 to Jörlöv (“Jörlöv”). Applicants respectfully traverse this rejection in view of the following remarks.

The Examiner relies upon Paige to teach all of the features defined by claim 15, except for the “tube” feature, and therefore looks to Jörlöv to make up for the deficiency. This rejection position is not convincing for the following reasons.

The Examiner’s Reliance Upon Paige is Misplaced

With reference to Fig. 1 of Paige, the disclosed device includes a housing 30 that supports an optical element 1, and a light source 2 for emitting light toward the optical element 1. The Examiner compares the light source 2 to the “laser diode” required by claim 15.¹ Paige expressly indicates otherwise.

According to Paige, the light source 2 is a light emitting diode (“LED”), and more specifically, a quaternary LED of IN-GA-AL-P that emits light in a region around 620 nm.² Paige’s disclosure in this regard is no more pertinent than the description of related art found in the instant specification, which acknowledges that weapon sights implementing LED’s have been around for approximately 20 years.³

An LED and a laser diode are not one and the same. They have different structural and functional characteristics. By way of example only, as compared to an LED, a laser diode emits light in a narrower wavelength interval and consumes less power.

¹ Office Action, p. 2, lines 13-15.

² Paige, col. 6, lines 19-32, and col. 7, lines 57-67.

³ Spec., p. 1, lines 10+.

Applicants respectfully submit that Paige does not teach or suggest the “laser diode” feature of claim 15. Consequently, even if combined in the manner suggested by the Examiner, the resultant device would not meet each and every feature defined by claim 15.

Paige Teaches Directly Away From the Alleged Modification

The alleged modification involves dispensing with Paige’s housing 30 in favor of the tube 12 taught by Jörlöv to protect the optical elements and provide for increased durability.⁴ Applicants respectfully disagree.

As shown in Fig. 9 of Paige, the rear of the housing 30 has an open structure, while the front of the housing 30 has an enclosure 31 that surrounds the optical element 31. This structure is not incidental. Specifically, by using the enclosure 31 around the optical element 31, the visible area of the housing 30 appears small to the user and out of focus when the target area is being viewed, which provides a seemingly uninterrupted viewing area.⁵ But if a tube (as taught by Jörlöv) were implemented, then the visible area of the housing would increase, thereby reducing the desired effect.

Turning to the next point, a photo-detector PD1 is mounted on a circuit board 14, which is inserted into a slot in the underside of the housing 30.⁶ The photo-detector PD1 adjusts the intensity of the LED 2 according to ambient light conditions above and ahead of the sight.⁷ The photo-detector PD1 is capable of sensing the ambient light conditions above the sight because the housing 30 has an open structure above the photo-detector PD1. This could not be achieved, however, if a tube (as taught by Jörlöv) were implemented. Specifically, the wall of the tube would cover the photo-detector PD1 and block its ability to detect ambient light conditions above the sight.

⁴ Office Action, p. 3, lines 8+.

⁵ Paige, col. 6, lines 4-8.

⁶ Paige, col. 10, lines 7-9 and lines 33-40.

⁷ Paige, col. 10, lines 52-54.

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Finally, Paige specifically discusses Jörlöv (as background), and provides a laundry list of associated shortcomings.⁸ The shortcomings relate to the size and lens configuration, which would have led those skilled in the art directly away from any combination of Paige and Jörlöv.

CONCLUSION

For at least the reasons discussed above, Applicants earnestly solicits reconsideration and allowance of all of the claims.

Pursuant to 37 CFR §§ 1.17 and 1.136(a), Applicants petition for a one (1) month extension of time for filing a reply to the October 6, 2009 Office Action, and submit the required extension fee herewith.

The Commissioner is authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-4446 for any additional fees required under 37 CFR § 1.16 or under 37 CFR § 1.17; particularly, extension of time fees.

Respectfully submitted,

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⁸ Paige, col. 2, lines 46-64.